

REMARKS

Rejected claims 94, 96, 104, 111, 113 and 116-119 have been canceled without prejudice.

Claims 84, 93, 99, 103 and 110 have been rejected under 35 U.S.C. § 102(a) as being anticipated by Knight et al '479. This rejection is respectfully traversed with respect to these claims as amended herein.

Specifically, the independent claims 84, 99 variously recite “a transparent distal tip having substantially conical tapered outer walls converging substantially symmetrically about the central axis to a blunt end for dissecting tissue, the tip being disposed on a distal end of the unit to dissect tissue and facilitate passage of the tubular body through tissue under endoscopic visualization,” and “a non-inflatable dilating element disposed proximally of the distal tip and having a substantially olive-shaped exterior contour that is disposed symmetrically about the central axis and that gradually increases in size in the proximal direction from a distal edge thereof to a maximum cross-sectional dimension greater than the cross-sectional dimension of the distal end of the tubular body, the dilating element then decreasing in size to a proximal edge.”

In addition, the dependent claims are further limited by such specific recitations as “the maximum cross-sectional dimension of the dilating element is symmetrically disposed about the central axis and is at least two times larger than

the cross-section sectional dimension of the distal end of the tubular body”, or “the distal tip and dilating element are formed as a single unit removably mounted on the tubular body substantially symmetrically about the central axis”.

These aspects of the claimed invention promote unlimited angular orientations of the tissue dissector about its central axis during a surgical procedure, and promote diminished drag of the elongated body through dilated tissue, with concomitant reduction in damage to tissue surrounding a channel formed in dissected and dilated tissue.

These aspects of the claimed invention were not known or used by others or set forth in a publication or in the Knight et al '479 patent prior to the Applicant's invention thereof. At best, Knight et al '479 merely relies upon a spoon-shaped shield to dissect a wide swath of tissue along a vessel in a restrictive and specific angular orientation. There is no disclosure here of axial symmetry, of a dissector or dilator about the axis of the elongated body to promote unlimited angular orientations and manipulations about all sides or surfaces of a vessel, in any manner resembling Applicants' claimed invention. Instead, this reference relies upon an upright handle affixed at the proximal end of the elongated body to assure substantially fixed angular orientation of the non-symmetrical spoon-shaped shield at the distal end of the body, relative to the vessel being dissected away from adherent tissue. It is therefore respectfully submitted that Applicant's invention as

now claimed herein was not known or used in this country, nor published, nor contained in the patent of Knight et al '479 prior to Applicant's invention of the claimed subject matter, and that amended claims 84, 93, 99, 103 and 110 are now patentably distinguishable over the cited art.

Rejected claims 90-92, 107-109 and 120-121 have been canceled without prejudice.

Claims 95 and 112 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Knight et al '479 in view of Yoon '286. This rejection is respectfully traversed with respect to these claims as amended herein.

These dependent claims are further limited over their respective 'parent' claims 84 and 99 that contain distinctive recitations as discussed in the above Remarks, by further defining "the dilating element is compressible in cross-sectional dimension."

These aspects of the claimed invention greatly facilitate unlimited angular orientations of the tissue dissector about the axis of the elongated body during its use in a surgical procedure, and additionally promote tissue dilation with reduced tissue damage.

These aspects of the claimed invention are not disclosed or even fairly suggested by these cited references considered either alone or in the combination proposed by the Examiner. Specifically, the device of Knight et al '479 for

dissecting tissue is demonstrably unsuitable for proper operation in any other angular orientation than with the handle 14, 24 in substantially upright position, and concomitantly with shield 16 in concave down orientation. Nor is the shield, used as a tissue dissector, noted to be compressible in cross-sectional dimension. Thus, merely combining the safety shield 34 over a sharp tip 46 on the trocar 32 of Yoon '286, is not understood to be operationally possible as a tissue dissector and dilator, in any manner resembling Applicants' claimed invention. At best, a resilient safety shield of Yoon '286 is understood to act as a positive stop to its movement on the sharp tip of the trocar, and is described to collapse along concentric fold lines that would impermissibly impede advancing the device through tissue for dissection or dilation procedures. In short, a combination of Yoon '286 with Knight et al '479, if even functionally or operationally possible, would nevertheless impermissibly alter the disclosed functionality of one or both of these references, and would fail anyway to establish a *prima facie* basis, including all recited elements, from which a proper determination of obviousness could be formed. It is therefore respectfully submitted that dependent claims 95 and 112 as amended herein are now patentably distinguishable over the cited art.

Applicants are submitting herewith new dependent claims 122-125 to provide the scope and breadth of claims coverage to which Applicants are submitted to be entitled in view of the cited art.

Favorable reconsideration and allowance of all claims are solicited.

Respectfully submitted,
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